

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEN ORLANDO MARTIN, JR.,

No. C 06-5214 SI (pr)

Petitioner,

**ORDER RE. INTENDED DISMISSAL**

v.


B. CURRY, warden,

Respondent.

Mail sent to petitioner came back to the court undelivered and with a notation from the CTF-Soledad that said "death" as the reason for the non-delivery of the mail. The court understands the notation to mean that petitioner Ben Orlando Martin is dead. The death of a habeas petitioner renders his petition moot. See Griffey v. Lindsey, 349 F.3d 1157 (9th Cir. 2003); McClendon v. Trigg, 79 F.3d 557, 558 (7th Cir. 1996). Before dismissing the action, the court wants to be sure that no mistake has been made at the prison. Accordingly, if petitioner is alive, he must notify the court of that fact no later than **December 20, 2006**. If the court does not hear from petitioner or this order comes back undelivered, this action will be dismissed as moot due to his death.

IT IS SO ORDERED.

DATED: November 20, 2006

  
SUSAN ILLSTON  
United States District Judge